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PATENT
Docket 13DV-14194

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:
J.S. Shaw et al

Art Unit: 1711

Application No.: 09/944,709
Confirmation No: 1772

Examiner: Cooney, J.M.

Filed: 08/31/2002

Title: Fiber Imbedded
Polymeric Sponge

PROVISIONAL ELECTION

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

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In response to the office action dated as mailed on 09/17/02, and having a period of response extending through and including 10/17/02, Applicants request reconsideration.

Applicants traverse the restriction requirement and provisionally elect for initial examination the examiner's designation of invention I drawn to product sponge claims 1-22.

MPEP 806.05(f) places the burden on the examiner to show that "the product as claimed can be made by another and materially different process."

The examiner's proffered example is "post-curing impregnation methods," however this example is not different

CERTIFICATE OF TRANSMISSION (37 CFR 1.8a and MPEP 512)

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in any manner, let alone materially different as required by the MPEP, and the restriction requirement should be withdrawn.

Note that claim 1 expressly recites a "polymeric sponge including cellulose fibers imbedded therein;" and independent method claim 23 recites a method including "curing said reacting mixture to form said polymeric sponge including said integral cellulose fibers therein."

The broad, open-ended language of method claim 23 clearly includes the very example proffered by the examiner since claim 23 does not exclude "post curing impregnation methods."

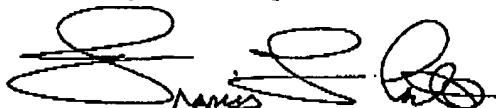
The examiner's example therefore does not meet the materially different requirements of the MPEP.

Furthermore, claims 1-22 recite various species of the sponge, and method claims 23-43 recite various methods for the manufacture thereof. Accordingly, there are a plethora of "linking claims" under MPEP 809.03 for preventing restriction.

Yet, further method claims 23-43 were written in accordance with the mandate of MPEP 821.04 and are therefore entitled to a full examination and search on the merits thereof in the present application, without restriction.

Accordingly, Applicants have made their provisional election, with traverse, and maintain their right under the Rules for due rejoinder of method claims, either now or upon eventual allowance of the product claims.

Respectfully submitted,



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